Fletcher at the time of his decease was the owner of property, some of it situated in Massachusetts and some in Michigan. Each State had jurisdiction over the property within its limits, and could in its own courts, in conformity with its laws, provide for the disposition thereof. Massachusetts exercised its jurisdiction over the property within its limits and disposed of it by legal proceedings in its courts. The contention now is that the proceedings in the Massachusetts court can be made operative to control the disposition of the property in Michigan. In support of this contention counsel for plaintiff in error state two propositions:

"The Supreme Judicial Court in Equity for Suffolk County, Massachusetts, having had jurisdiction in Fletcher's lifetime over the subject-matter and the parties to the suit, and on his death the suit having been duly revived, the decree is conclusive evidence of debt in this proceeding.

"Fletcher's Michigan executors and the administrator with the will annexed of his estate in Massachusetts are in such privity that the decree is conclusive evidence of debt in this proceeding."

Considering first the latter proposition, we are of opinion that there is no such relation between the executor and an administrator with the will annexed appointed in another State as will make a decree against the latter binding upon the former, or the estate in his possession. While a judgment against a party may be conclusive, not merely against him, but also against those in privity with him, there is no privity between two administrators appointed in different States. *Vaughan* v. *Northrup*, 15 Pet. 1; *Aspden* v. *Nixon*, 4 How. 467; *Stacy, Adm'r*, v. *Thrasher*, 6 How. 44. In this latter case, on page 58, it was said:

"Where administrations are granted to different persons in different States, they are so far deemed independent of each other that a judgment obtained against one will furnish no right of action against the other, to affect assets received by the latter in virtue of his own administration; for in contempla-

tion of law, there is no privity between him and the other administrator. See Story, Confl. of Laws, § 522; *Brodie* v. *Bickley*, 2 Rawle, 431."

See also *McLean* v. *Meek*, 18 How. 16; *Johnson* v. *Powers*, 139 U. S. 156, in which the question is discussed at some length by Mr. Justice Gray. This doctrine was enforced in Massachusetts. *Low* v. *Bartlett*, 8 Allen, 259, where a judgment had been recovered in Vermont against an ancillary administrator appointed in that State, whose appointment had been made at the request of the executor under the will probated in Massachusetts, and it was held that the administrator was not in privity with the executor, because the two were administering two separate and distinct estates, the court saying, p. 262:

"If we look at the question of privity between the executor here and the ancillary administrator in Vermont, it is difficult to find any valid ground on which such privity can rest. The executor derives his authority from the letters testamentary issued by the probate court here; he gives bond to that court; is accountable to it for all his proceedings; makes his final settlement in it and is discharged by it, in conformity with the statutes of this Commonwealth. The administrator derives his authority from the probate court in Vermont, and is accountable to it in the same manner in which the executor is accountable to our court. The authority of the executor does not extend to the property there, nor to the doings of the administrator. Nor does the authority of the administrator extend to the property here, or to the doings of the executor. When the plaintiff commenced his suit against the administrator, the executor had no right to go there and defend it. If he had been found in Vermont he could not have been sued there. The judgment rendered in the suit was not against him, or against the testator's goods in his hands; but was simply against the administrator and the testator's goods in his hands. The courts of Vermont had no jurisdiction of the executor or of the goods in his hands, any more than our

courts would have over the administrator and the goods in his hands. It is this limitation of state jurisdiction that creates a necessity for an administration in every State where a deceased person leaves property; and each State regulates for itself exclusively the manner in which the estate found within its limits shall be settled."

The Massachusetts statutes proceed along this line. Secs. 10, 11 and 12, c. 136, Mass. Rev. Laws, 1902, provide for the probate of foreign wills in Massachusetts. Sec. 12 reads:

"After allowing a will under the provisions of the two preceding sections, the probate court shall grant letters testamentary on such will or letters of administration with the will annexed, and shall proceed in the settlement of the estate which may be found in this Commonwealth in the manner provided in chap. 143 relative to such estates."

With reference to the first contention of counsel, we remark that, while the original suit against Fletcher in the Massachusetts court was revived after his death, yet the revivor was operative only against the administrator with the will annexed. Neither the executors nor the residuary legatees were made parties, for it is elementary that service of process outside of the limits of the State is not operative to bring the party served within the jurisdiction of the court ordering the process. Such also is the statutory provision in Massachusetts. Section 1, ch. 170, Mass. Rev. Laws, 1902, reads:

"A personal action shall not be maintained against a person who is not an inhabitant of this Commonwealth unless he has been served with process within this Commonwealth or unless an effectual attachment of his property within this Commonwealth has been made upon the original writ, and in case of such attachment without such service the judgment shall be valid to secure the application of the property so attached to the satisfaction of the judgment, and not otherwise."

The Massachusetts court, therefore, proceeded without any personal jurisdiction over the executors and legatees, who

were all domiciled in Michigan, did not appear, and were not validly served with process.

The argument of plaintiff in error is that by personal appearance during his lifetime the Massachusetts court acquired jurisdiction of the suit in equity against Fletcher; that his death prior to a decree did not abate the suit, but only temporarily suspended it until his representative should be made a party; that if a decree had been rendered against him in his lifetime it would have established, both against himself and after his death against his estate, whatever of liability was decreed; that while the suit was pending the parties entered into a stipulation for an arbitration; that that arbitration did not abate, nor was it outside the suit, but in terms made under rule of court and not to operate as a discontinuance of the suit. Provision was also made in the stipulation for the contingency of death, its terms being "that the decease of any party shall not revoke said submission, but that said arbitration shall continue, and that . . . the legal representatives of said Brown and said Fletcher shall be bound by the final award therein;" so that there is not merely the equity rule that a suit in equity does not abate by the death of the defendant, and that the jurisdiction of the court is only suspended until such time as the proper representatives of the deceased are made parties defendant, but also a special agreement in the submission to arbitration that it shall be made under a rule of court, and that the death of either party shall not terminate the arbitration proceedings, but that they shall continue until the final award. It is urged that on the death a revivor was ordered; that the representative of the decedent's estate in Massachusetts, to wit, the administrator, was made a party defendant and appeared to the suit, and notice was given by personal service upon the executors and legatees in Michigan of the fact of the revivor, and that they were called upon to appear and defend.

But it must be borne in mind that this arbitration was made under a rule of court. Not only that, but special provision

was made for the action of the court in deciding questions of law arising upon the report of the arbitrator, so that the arbitration was not an outside and independent proceeding, but simply one had in court for the purpose of facilitating the disposition of the case. And we may remark in passing that we do not have before us the case of a simple arbitration contract, executed independently of judicial proceedings, and express no opinion as to the rights and remedies of one party thereto in case of the death of the other. The validity of the decree must depend upon the proceedings subsequent to the death of Fletcher. On his death the jurisdiction of the Massachusetts court was not wholly destroyed, but suspended until the proper representative of Fletcher was made a party. The Massachusetts administrator was made a party and did appear, and the decree rendered unquestionably bound him, but the executors, the domiciliary representatives of the decedent's estate, did not appear and were not brought into court. The Massachusetts administrator was not a general representative of the estate, and could not bind it by any appearance or action other than in respect to the property in his custody. If the home estate was to be reached it had to be reached by proceedings to which the home representatives were parties. The agreement of the parties that the arbitration should continue in case of the death of either, and that the legal representatives of the party should be bound by the final award, was an agreement made in the course of judicial proceedings of the suit in the Massachusetts court. It did not operate to make the home representatives of the decedent parties to the suit on the death of Fletcher. It did not bring his general estate into court. We concur in the views expressed by the Supreme Court of Michigan in the close of its opinion that—

"It must be held that the proceedings in the Massachusetts court abated with the death of Mr. Fletcher, that its revivor was possible only because there was brought into existence, by the exercise of the sovereign power of the State, a represen-

tative of the decedent, clothed with certain powers with respect to the estate of the decedent within the State, and that the decree thereafter rendered in the suit so revived is without effect save upon the administrator of the estate who was in accordance with the law of the place brought upon the record."

We are of opinion that the Supreme Court of Michigan did not fail to give "full faith and credit" to the decree of the Massachusetts Supreme Court, and therefore the judgment is

Affirmed.